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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,996	02/10/2006	Takaaki Nakamura	15682-018US1	7484
26211 7590 12/13/2007 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER CHARIOUI, MOHAMED	
			ART UNIT 2857	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,996

Applicant(s)

NAKAMURA, TAKAAKI

Examiner

Mohamed Charioui

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-5,7 and 9 is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Applicant cancelled claims 2 and 6.

DETAILED ACTION

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 8 is rejected under 35 USC § 101 because they are directed to non-statutory subject matter.

The descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts." Being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions.

Allowable Subject Matter

3. **Claims 1, 3-5, 7 and 9** are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 1 is allowed because the closest prior art, Sugimoto et al. (U.S. Patent No. 4,649,743) fails to anticipate or render obvious an acoustic vibration analyzing apparatus capable of carrying out analysis of acoustic vibrations by picking up data of sounds or vibrations generated due to rotation of a plurality of rotating bodies and data of a number of revolutions of a rotating body selected from the plurality of rotating bodies when a power transmission mechanism of a vehicle having the plurality of rotating bodies operates, said acoustic vibration analyzing apparatus comprising means for reproducing sounds having a specified order selected based on display of the displaying means, in combination with the rest of the claim limitations as claimed and defined by the Applicant.

Claim 5 is allowed because the closest prior art, Sugimoto et al. (U.S. Patent No. 4,649,743) fails to anticipate or render obvious a method of analyzing acoustic vibrations by picking up data of sounds or vibrations that are generated due to rotation of a plurality of rotating bodies and data of the number of revolutions of a rotating body selected from the plurality of rotating bodies when a power transmission mechanism of a vehicle having the plurality of rotating bodies operates, said method including a step of reproducing sounds when reproduction of sound having a specified order are selected based on display of made in the displaying step, in combination with the rest of the claim limitations as claimed and defined by the Applicant.

Claim 9 is allowed because the closest prior art, Sugimoto et al. (U.S. Patent No. 4,649,743) fails to anticipate or render obvious a recording medium readable by a computer, by which acoustic vibration analysis is carried out by causing data of sounds or vibrations generated due to rotation of a plurality of rotating bodies and data of a number of revolutions of a rotating body selected from the plurality of rotating bodies picked up by a computer when a power transmission mechanism of a vehicle having the plurality of rotating bodies operates, wherein said recording medium stores a program including a step of reproducing sounds when reproduction of sound having a specified order are selected based on display of made in the displaying step, in combination with the rest of the claim limitations as claimed and defined by the Applicant. *

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-5 and 7-9 have been considered but are moot in view of the new ground(s) of rejection.

Contact information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed Charioui whose telephone number is (571) 272-2213. The examiner can normally be reached Monday through Friday, from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on (571) 272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mohamed Charioui

12/8/07

**EDWARD RAYMOND
PRIMARY EXAMINER**

A handwritten signature in cursive script, appearing to read "Edward Raymond", is written over the printed name and title.